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RAILWAY SERVICE AND REGULATION IN PORT TERMINALS

The regulation of transportation in the United States has been the outgrowth of a theory which has demanded competition among common carriers. Our early railroads were short and disconnected lines and the regulation, if any, was local in character. As these roads lengthened out into systems many difficult problems presented themselves and the relation of common carriers to industries took on a new significance. This was not appreciated for some time and the carriers in this country were left without adequate control for more than half a century. Even at the present time our legislation does not recognize sufficiently the fundamental principles of economics which should be applied to the transportation business. Our theory of railroad control in this country has apparently assumed that carriers and industries belong to the same class. The principles of economics which might apply to certain industries have been carried over into railway regulation, and it has been impossible, therefore, for carriers to render the kind of service which the public has a right to expect. Nor will carriers render the service which they should until legislation forces them to do certain things they will not do under present railway legislation.

In this country as compared with European countries we had little regulation of railway building. For many years railroads were built parallel to each other; in some instances, merely to force the original road to buy out the newcomer in order to prevent rate wars. In France, on the other hand, the regulation of railway building was of such character that railroads were planned by engineers under direction of the French government. Generally speaking, the roads there radiate out from Paris like the spokes in a wheel. The ambitious promoter of railroads did not find a fertile field in France. In this country, in addition to much parallel building, certain roads secured most of the valuable land suitable for terminal transportation and it has been difficult for late comers in our important terminals to render efficient service to the public.

The lack of regulation of railroad building in America has had some very unfortunate results. It resulted in excess of railroad mileage over needs throughout many portions of the country and it brought monopoly control of terminal facilities. Charles Francis Adams pointed out in 1875 that in this country railroads were built out into sections where nobody lived and from that point on out to where nobody cared to go. The excess of transportation facilities continued until about 1905 and it meant keen competition among roads. Our parallel mileage has meant more discrimination on the part of carriers

in favor of or against industries than has been the case in other countries. Moreover, it has meant that terminal facilities over which certain roads have had monopoly control have been used to secure traffic that could not otherwise be obtained. It is evident, therefore, that one of the most vital phases of railway regulation for the future is that of the control of transportation service within our important port terminals and in a proper coördination of rail and ocean transportation.

The difficulties now encountered in rendering efficient transportation service in our port terminals may be attributed to three groups of causes: (1) those which concern railroads primarily; (2) those that result from the practice of certain industries; and (3) those due to the lack of foresight on the part of governing authorities in providing for the coördination of all terminal transportation services and facilities.

The traffic which enters important ports is of two kinds: first, traffic destined for points beyond the port, and, second, that for distribution within the port terminal itself. It will not be possible to prevent the clogging of our transportation machinery and the necessity for embargoes upon freight when traffic becomes heavy, so long as all the carriers within our port terminals are permitted to handle traffic in the interest of the individual systems concerned. Railroad control of strategic terminal facilities in our ports has been the natural outcome of competition among our railroads, but it has had some very unfortunate results.

In the first place, government control over railroad rates has intensified railroad competition in terminals; railroads have vied with each other in offering ample terminal facilities and this practice has resulted in duplication of expensive terminals without adequate provision for their physical coördination. Such a policy has meant the purchasing of much terminal land or water frontage by the railroads in anticipation of their needs. Thus we have railroad domination of the New Jersey side of New York Harbor. Some of the unfortunate results of this situation were indicated in the evidence presented to the Interstate Commerce Commission in the notable New York Harbor case. It was pointed out in the decision in this case that railroad rivalry had prevented the establishment of reciprocal switching arrangements and a joint terminal operation of railway facilities on the New Jersey shore. In other words, the lack of a program of unification of facilities has caused carriers to invest large sums in new terminals for their individual use instead of uniting in a common effort to solve in a larger way the terminal problems of our ports. At only a few ports in this country have such unsatisfactory conditions been prevented. New Orleans and San Francisco are conspicuous exceptions to the general rule. Examination of the dockage and wharfage charges

at the various ports in this country indicates that in some instances terminal charges are in addition to the line haul and in other cases are absorbed.¹ Ordinarily these charges are absorbed on traffic coming from competitive territory or in cases in which the railroad receives a certain minimum revenue.

The second unsatisfactory result of railroad competition in our terminals and ports has been the rendering of services in terminals for less than cost. This has been done in order to secure the line haul of the traffic. Testimony was given before the Interstate Commerce Commission in 1912 to the effect that lighterage and other terminal services in New York cost the Baltimore and Ohio Railroad more than the allowance it received for those services out of joint rates; that on this account that railroad had a deficit on its terminal services in New York, for the years 1909-1911, of more than one and one quarter million dollars. In the decision of the so-called Five Per Cent case, the Interstate Commerce Commission said there were many special services being rendered by carriers to shippers for which no special charge or a non-compensatory charge was being made. The commission stated that the compilations prepared by it from carriers' answers to its inquiries showed that the practice of individual roads meant the absorption of enormous expenses by carriers for such terminal services as loading and unloading carload freight, allowing for free time for loading and unloading, collecting and delivering freight, storing freight, furnishing and transporting dunnage, furnishing or paying for wharfage and dockage and other special services.

The third unsatisfactory result of competition in furnishing terminal and port facilities by a number of different railroads is lack of co-ordination both among the railroads and between rail and water carriers. A common provision in terminal tariffs is to the effect that a railroad does not obligate itself to furnish wharfage, storage, or handling of freight which has not been transported or is not intended to be transported over its line; but that it reserves the absolute right to the use of its piers or docks. In response to an inquiry concerning wharfage rates in New York Harbor for the United States Shipping Board the reply was given by a number of railroads that they quoted no wharfage rates on their piers, for to do so would be to give the impression that they were open to public use, which they said was not desired. In actual practice, such theories frequently mean the refusal of one railroad to permit the use of its terminal facilities by other roads unless it receives the line haul of the traffic. From the land end of transportation it is the switching service which must be depended

¹ *Terminal Charges at United States Ports*, prepared under direction of C. O. Ruggles (U. S. Shipping Board publication, May 1919), pp. 181.

upon to unify the port in the movement of cars from one waterfront to another with the least possible delay. But, as a matter of fact, there is often much delay and sometimes refusal on the part of carriers in rendering switching service for each other. What this means at Boston, for example, may be seen from the *Second Annual Report of the Commission on Waterways and Public Lands*, in which it is stated that the time limits are marked by the "number of days involved rather than hours," and where "charges are several times as large as those made under better organized conditions." The President of the Port of Seattle, before the American Association of Port Authorities in 1917, pointed out that at that time, the Northern Pacific switching tracks on Seattle's marginal streets were divided into "thirteen districts or zones each having a switching rate ranging from \$1.50 to \$12."

The refusal of a railroad to do switching when import or export freight is involved means inefficiency of both rail and water transportation. For example, if railroad *A* refuses to accept freight in switch movement from railroad *B* when it is to be exported from the piers of railroad *A*, this means that railroad *B* is compelled to lighter the cargo to the vessel at the pier of railroad *A* or the vessel must shift to the piers of railroad *B* after taking on its cargoes at the piers of railroad *A*. Likewise, if part of the cargo of the vessel is destined to points not located on the line of the railroad at whose piers the vessel docks, this cargo must be lightered to the piers of the railroad over which it is to be carried or the vessel must shift in order to discharge the cargo at the piers of the road which is to have the line haul. Such a practice makes as many separate ports within a port as there are deep water terminals controlled by the different railroad companies. It sometimes means too that there is congestion at the water terminals of some railroads while others are not used to their capacity. This inefficiency in terminal services, which means imperfect coördination of rail and water carriers, makes embargoes upon traffic necessary. The effects of these embargoes extend far into the interior. Obviously the restriction of strategic port terminal facilities to its own use is an attempt by the railroad to secure a line haul of the traffic. While this is a failure to appreciate that railroads are common carriers, it is, as has been said, the logical result of railway competition in the furnishing and in the operation of terminal facilities.

The second group of causes which are responsible for the inefficiency in our port terminals relates to the fact that industries now occupy certain locations which should be devoted to transportation services only. There are two important functions which ports, for example, must serve, industrial and commercial. Generally speaking, the industrial function is the use of the port in serving local needs, whereas

the commercial function involves the use of the port as an essential link in commerce. Frequently the two uses are confused and there is inefficiency in both. The industrial use of the port through the appropriation of deep waterfront is an old and common practice in American ports. Industries have had great difficulty in securing efficient railway service within ports and hence they have frequently secured a location on the waterfront itself where they might be able to avail themselves of lighterage services and to gain a more direct connection with ocean carriers, thus making themselves practically independent of rail transportation. Every port has a right to develop industrially. It is in the interest of society that it should; for it is frequently there that greatest efficiency in industrial processes can be obtained. Statistics of manufactures show that this fact is recognized. Rail carriers are interested in transporting raw material away from the port to some point in the interior where it is manufactured and returned to the port for export or distribution within the country, thus giving the railroad a haul in both directions. But has any port the right to develop industries on its waterfront in such manner as to interfere with the function of the port as a link in the chain of world commerce? Ocean-going vessels can be accompanied only at the deep waterfront. Industries, on the other hand, can be served back some distance from the waterfront if efficient rail service is provided. In New York Harbor at the present time the dockage facilities on the Manhattan side of the North River are being used by vessels that could be accommodated in the East River or elsewhere. There are vessels now using the waterfront of the North River that draw no more than 17 feet of water and they are occupying berthing space which ought to be available to ocean-going vessels that draw 35 feet of water. It is interesting to observe that the Director of the Port of New York recommended in November, 1918, the shifting of the Sound steamers to the East River. In making this recommendation he pointed out that, in addition to providing greater accommodation for ocean-going vessels, such a change would eliminate the trip of the Sound steamers around the Battery, saving sixty miles of useless navigation per day and relieving much of the congestion at that point; also that if the freight carried by the Sound steamers were discharged in the East River it would greatly relieve congestion from drayage in certain parts of Manhattan and make effective use of streets which at present are used much under capacity. It is evident that the Sound steamers use North River because it means cheaper service and greater convenience for certain industrial interests in lower Manhattan. The fourth preliminary report on the port of New York by the New Jersey Harbor Commission contains evidence showing that certain sections of New York Harbor

frequently have become congested while other portions with great commercial possibilities have remained undeveloped; that private interests have acquired by purchase or lease the best localities in the harbor and, in the absence of any general authority, have planned their terminals for individual needs, which were often not for the benefit of the port as a whole. In contrast to the policy in the port of New York, New Orleans has complete control over her waterfront. It is true that the Illinois Central Railroad now holds a portion of the waterfront at that port, but this can be taken away from it at any time the port authorities of New Orleans deem such action to be in the interest of the port. In the improvement which is now going on in New Orleans attempt is being made to reserve the deep waterfront of that port for commercial uses. New Orleans is now preparing industrial sites and constructing canals which will enable industries although located some distance from the waterfront to use lighterage services in the making or receiving of deliveries. New Orleans, San Francisco, and some other Pacific ports have made much headway in preventing the conflict of the industrial and commercial uses of a port.

The third group of causes of inefficiency in our ports has been due to the lack of foresight on the part of governing authorities in securing the coördination of transportation services within our port terminals. It was natural that industries and railroads should have been given what they asked in the early history of port development. Hence railroads and industries secured control, many times through actual ownership, of much deep water frontage which never should have been surrendered to them. Railroad maps of many of our important ports show clearly that railroads not only attempted to secure exclusive control over deep water frontage but that they located their lines in such manner as to make it impossible for other railroads to secure waterfront privileges without consent of the road already located in the port. It is strange that cities have not appreciated that it is to their interest to secure the actual ownership of waterfronts and to control them in such manner as to prevent inefficiency of transportation within their harbors. But even in cases where the cities have secured the ownership of their waterfront they have not always taken advantage of their opportunities. For example, New York owns most of its waterfront but has been following the policy of granting long-time leases, which has resulted in loss of control of the water frontage as definitely as if that city had resold its water frontage to individual interests. Charges and services have not been controlled by the city but have been determined by private interests that have held the long-time leases. Cities have found it profitable to lease their waterfront because it has meant a definite amount of revenue for the city treasury.

But the question may be asked whether cities should be permitted to use their waterfront as a revenue producing facility, and so cause expense and inconvenience to the country at large. For example, would it not be as logical to permit New York City to retain the customs duties collected at that port upon the commerce of the United States as it is to permit a use of the harbor which produces revenue for the city treasury at the expense of the country's commerce.

What remedy can be found for the present inefficiency of transportation service in our port terminals? Some authorities have held that our present difficulties are due to certain features of past railway legislation and that with the repeal of that legislation nothing more is necessary. But it does not appear that repeal of legislation prohibiting certain railway combinations is sufficient. It is not reasonable to expect (human nature being the same in the railroad as in other businesses) that the railroad which enjoys a strategic position in a terminal will voluntarily give up its monopoly advantages by granting to other roads privileges which will mean the dividing of profits with those roads. Hence railroads in important port terminals must, apparently, be required to relinquish their rights to individual ownership of railroad facilities in such terminals. This would not necessarily mean government ownership or government operation of terminal facilities. Separate terminal companies could be organized that would have no more interest in the business of one carrier than in that of another.

If the control of all terminal facilities were in the hands of a separate terminal company, many economies could be realized in the handling of freight destined for points beyond the terminal or to the terminal itself. The operation of a belt line by a separate terminal company receiving freight from all carriers on equal terms would expedite the movement of freight from rail to ocean carriers and vice versa, and would also lessen the time and effort required for the distribution of freight destined for the port terminal itself. We permitted railroads at one stage of our development to take, through eminent domain, land from private parties to be used for common carrier purposes. With the enormous growth of certain of our port terminals and the increase in the number of carriers which now are in need of terminal facilities, it ought to be clear that the same rule of eminent domain which was applied to secure the land for an individual railroad should now be applied to secure the land and all other terminal facilities for the port terminal transportation companies. In other words, individual railway ownership and control of port terminal facilities should no longer be permitted in our important port terminals. If such ownership were eliminated it would be much easier to give more efficient transportation service at much less expense. This would mean

the division of freight rates in carrier accounts into a line haul charge and a terminal charge. This would not need to annoy shippers, as they would not know that such a division existed; but it could be recorded in the railway accounts, and the terminal services could be made to yield sufficient revenue to cover the cost of terminal services. This would prevent a carrier from using its advantages in terminal location to secure for itself more line haul traffic. In other words, as at present managed, the absorption of many terminal charges by railroads is the means by which traffic may be inveigled to travel over a certain line.

But the elimination of individual railroad ownership and control of port terminal facilities will not solve all our terminal problems. It will be necessary also to compel certain industries to relinquish important port terminal holdings that ought to be used for transportation purposes. The right of eminent domain should be exercised in dislodging interests that now occupy important deep water frontage. In our ports private interests often have exclusive contracts with ocean or rail carriers and these interests are often responsible for the securing of certain exclusive contracts between rail and ocean carriers; all of which may mean more business for the private interests involved and more traffic for certain rail and ocean carriers. From the standpoint of the public, however, it means an inefficiency in the use of facilities which in turn slows up the movement of traffic in our port terminals often causing embargoes throughout the entire country. The Transportation act of 1920 might possibly be construed so as to enable the Interstate Commerce Commission to accomplish much in unification of port terminal facilities. But the fact that the conference committee excluded the provisions for compulsory consolidation makes it doubtful whether the Interstate Commerce Commission would feel justified in adopting a vigorous program of compulsory consolidation; and nothing short of such a program will ever give to the public what it has a right to expect in efficient terminal service.

Finally, it is evident that if a program of compulsory consolidation is to be carried out, it will be necessary to recognize the jurisdiction of the national government over terminals and ports that are of national importance. New York City, Baltimore, Philadelphia, Boston, or other ports, should not be permitted to handle their port terminal facilities in such manner as to interfere with the efficiency of transportation from the standpoint of the shippers in Kansas, Colorado, or Iowa. At the present time there are three important railroads controlling the port of Boston, dividing it, in reality, into three separate ports. In Norfolk, Virginia, for example, although a belt line company handles domestic freight, one of the eight railroads there, the Norfolk and Western, controls the important deep water terminals and hence very

largely controls the movement of exports and imports at that port. This road uses its deep water terminals as a means of practically compelling traffic to come in over its own lines if it is to be exported from the Norfolk and Western deep water piers. It likewise places restrictions upon the acceptance of cargo from an ocean liner on its deep water piers unless that cargo is destined for some point on its own system.

Such lack of coördination in port and terminal facilities very often means liberal profits to the carrier or carriers advantageously located within the port, for they are not seriously concerned with the fact that freight congestion exists on their lines. In fact, congestion means to them as individual companions very liberal profits. From the stand-point of the public, however, it is clear that it is not desirable to have congestion of freight within a portion of a port terminal and certain other facilities within the port used much under their capacity.

In conclusion it seems evident that we cannot much longer permit railway companies, private industries, ocean carriers, cities or even states to maintain a policy within our important port terminals which may be profitable to certain interests but against the best interests of commerce generally. If this reasoning is sound we shall continue to have difficulties in this country until federal legislation is enacted which will direct the Interstate Commerce Commission or other authority to compel consolidation of all important port terminal facilities under one ownership and management. The public must insist upon the complete unification and coördination of these important facilities if it is to have sufficient and efficient transportation service.

C. O. RUGGLES.

State University of Iowa.